

Value Added Packaged Food Labeling Guide

What is a Value Added Product?

A value-added product is a good that has been transformed from its original raw state through processing or enhanced with features like special packaging, certifications, or branding to increase its market appeal, utility, or price.

DISCLAIMER: This outline is a general guide. Be sure to contact an attorney if you have questions or specific issues that need to be addressed.

To sell your product in a retail food facility, your package must have the following information to comply with the applicable agency's labeling requirements:

FDA

1. Statement of identity: The **common** name of the food. Cannot be misleading.
2. Ingredients (and sub-ingredients) descending order of predominance by weight. Includes artificial colors, flavors, chemical preservatives
3. Accurate declaration of net quantity of contents, **in both metric and U.S.** Customary System terms.
4. Name and location of manufacturer, packer or distributor
5. Major food allergens*, if applicable
6. Nutrition facts labeling if not exempt

***FDA and USDA Major food allergens include:**

Milk, eggs, peanuts, tree nuts, wheat, soybeans, fish, shellfish, and sesame.

USDA

1. Statement of identity: The **true** name of the food. Cannot be misleading. **Must reflect the processing method** (e.g., "smoked," "cured"), form (e.g., "chopped," "ground") and species.
2. **Inspection Legend** (USDA mark)
3. Accurate declaration of net quantity of contents in U.S. terms. **Metric units optional.**
4. Ingredients (and sub-ingredients) descending order of predominance by weight. Includes artificial colors, flavors, chemical preservatives
5. Major food alergens,* if applicable
6. Name/location of manufacturer, packer, distrib.
7. **Safe handling instructions for raw or partially cooked meat and poultry**
8. Nutrition facts labeling if not exempt.

USDA or FDA?

Generally, the USDA regulates meat, poultry, and processed egg products. The FDA regulates all other food products, including shell eggs and milk.

Key threshold:

Meat: $\geq 3\%$ raw or $\geq 2\%$ cooked meat. Poultry: $\geq 2\%$ poultry

If below these thresholds, the product is typically FDA-regulated, not USDA.



Nutrition Fact Labeling

◆ **Nutrition Fact labeling is required unless your business is exempt. Your label must follow FDA formatting rules.**

Exceptions include:

- Small business exemption- based on annual revenue or units sold
- Fresh and raw foods: Fresh produce or raw single-ingredient meat products.
- Foods with little nutritional value: Ex: spices, coffee, tea.
- Retail & Prepared Foods: Foods sold by the producer directly. (Restaurants, farmers markets)

Annual notice needs to be filed with the USDA for some exemptions.

Even if exempt, nutrition claims (e.g., "low sugar," "fat free") will trigger a Nutrition Facts requirement.

Nutrition Facts

Serving Size oz.	
Serving Per Container	
Amount Per Serving:	
Calories	Calories From Fat
	% Daily value*
Total Fat	%
Saturated Fat	%
Trans Fat	
Cholesterol	%
Sodium	%
Total Carbohydrate	%
Dietary Fiber	%
Sugars	
Protein	

*Percent Daily values are based on a 2000 calorie diet. Your daily values may be higher or lower depending on your calorie needs.



Exempt? Consider adding Nutrition Fact Labeling anyway to allow for faster expansion and provide your customers with important product information.



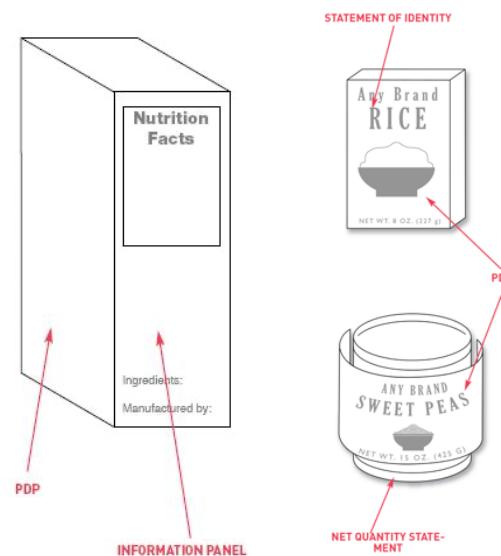
All of the information above needs to be in specific places on the packaging. Text must be easy to read, indelible, and in English (additional languages permitted).

PDP: Principal Display Panel

- The statement of identity
- Net quantity statement

Information Panel: To the right of the PDP (placed together with no interruption)

- Ingredient Information
- Manufacturing Information
- Allergen warning (in the ingredient list, or a separate "contains statement")
- Nutrition label if not exempt



Product Promotional Language

When people think advertising, they think big billboards or TV commercials, but product labeling = advertising too! So, product labeling is subject to consumer protection regulations governing advertising.

LABELING
=
ADVERTISING

◆ Labeling cannot be false or misleading!

EXAMPLE: ENVIRONMENTAL CLAIMS

Check out federal "Green Guides" at 16 CFR Part 260 for definitions and examples of false and/or misleading environmental claims, including:

- **Overstatement of environmental attribute.** Marketers should not state or imply environmental benefits if they are negligible.
- **False seals of approval.** Deceptive to misrepresent a product as being endorsed/certified by an independent third party.
- **Free-of claims.** Such claims should be clearly and prominently qualified to the extent necessary to avoid deception.
- **Non-toxic claims.** Need to have competent, reliable scientific evidence that the product, package, or service is non-toxic for humans and for the environment or qualify claims.

WHAT ABOUT THE FIRST AMENDMENT?

Commercial Speech is not as protected as other forms of speech.

Courts evaluate laws regulating your right to advertise using an intermediate-level test:

- Is it promoting a lawful activity?
- Balancing the government's interest in regulating that speech with how well the speech restriction actually succeeds at that interest without being more extensive than necessary.

SOME FEDERAL LAWS THAT GOVERN LABELING:

- Fair Packaging and Labeling Act (FPLA) (FTC & FDA): Applies to most "consumer commodities," mandating product identity, net quantity, etc.
- Federal Food, Drug, and Cosmetic Act (FD&C Act) (FDA): Regulates food, drug, and cosmetic labeling, including nutrition facts and ingredient lists.
- Federal Hazardous Substances Act (FHSA) (CPSC): Requires warning labels for hazardous household products, detailing risks and first-aid.
- FTC's Textile, Fur, & Wool Act: Set specific rules for fiber content, country of origin, and care instructions on apparel and textiles.
- Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA): authorizes EPA to regulate sale, distribution, and use, labeling, and registration of pesticides.
- Many more